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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,222	02/28/2002	Takayoshi Shimokawa	500.36133CC2	6364
20457	7590	09/03/2004	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-9889			LEROUX, ETIENNE PIERRE	
			ART UNIT	PAPER NUMBER
			2171	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/084,222	Applicant(s) SHIMOKAWA ET AL.	
	Examiner Etienne P LeRoux	Art Unit 2171	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-29 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/044,163.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/28/2002</u> ✓   | 6) <input type="checkbox"/> Other: ____                                     |

***Status of Claims:***

Claims 21-29 are pending. Claims 21-29 are rejected in this first action on the merits.

***Defective Oath or Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because applicant fails to identify abandoned patent application serial number 09/444,163, filed 3/19/1998.

***Specification:***

Applicant is reminded that in order for a patent issuing on the instant application to obtain the benefit of priority based on priority papers filed in parent Application No. 09/444,163 filed 03/19/1998 under 35 U.S.C. 119(a)-(d) or (f), a claim for such foreign priority must be timely made in this application. To satisfy the requirement of 37 CFR 1.55(a)(2) it is noted that a certified copy of the priority papers has been received in parent Application No. 09/444,163 filed 03/19/1998. Furthermore, an application in which the benefits of an earlier application(s) are desired must contain a specific reference to prior application(s) in the first sentence of the specification.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In instant application, the abstract exceeds 150 words.

***Drawing Objection:***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. In instant application, Figure 1 is well-known in the art. Applicant describes Figure 1 in the specification under the heading Background of the Invention. Furthermore, Figure 1 shows data pieces being added in a time series which is well-known and expected in the art. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,361,202 issued to Doue (hereafter Doue) in view of US Pat No 5,504,888 issued to Iwamoto et al (hereafter Iwamoto).

Claims 21-26, 28 and 29:

Doue discloses a plurality of data areas, each of said plurality of data areas being loaded with data each for a constant time generated in time series during a certain time, the plurality of data areas being managed by the time series [Doue discloses each data record in the database for a patient has a time and date stamp, refer col 4, lines 11-12]

Doue discloses bookmark information areas respectively provided at predetermined locations in said plurality of data areas, each having a pair of bookmark information indicative of a time at which said data is loaded in a time series data piece for said constant time in each of said data areas [the time and date stamp on each record for a patient in a database reads on the claimed bookmark as a bookmark is simply a marker inserted at a specific point to which the user may return for later reference,<sup>1</sup> refer col 5, lines 1-10].

Doue fails to disclose state transition information indicative of a state of the data piece in said each data area, said state transition information being allowed to have one of a value indicative of an online state in which the data area is permitted to be retrieved and a value indicative of a loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved.

Iwamoto discloses state transition information indicative of a state of the data piece in said each data area, said state transition information being allowed to have one of a value indicative of an online state in which the data area is permitted to be retrieved [load completion flag, col 5, line 63] and a value indicative of a loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved [access inhibit flag, col 5, line 67].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Doue to include state transition information indicative of a state of the data piece in said each data area, said state transition information being allowed to have one of a value indicative of an online state in which the data area is permitted to be retrieved and a value

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<sup>1</sup> Microsoft Computer Dictionary Fifth Edition

indicative of a loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved as taught by Iwamoto for the purpose of file management of the batch process [Iwamoto, col 5, lines 30-40]. The ordinarily skilled artisan would have been motivated to modify Doue per the above for the purpose of improving the invention by increasing the speed of updating by executing in parallel a batch process with a large volume of updating without interruption of the on-line process [Iwamoto, col 1, lines 55-60].

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Doue and Iwamoto and further in view of US Pat No 5,627,783 issued to Miyauchi (hereafter Miyauchi).

Claim 27:

Doue discloses a processor having a memory for storing data for a certain time and a clock for reading times at which said data are applied, the data in the memory being managed by time series; and a database connected to said processor and having bookmark information indicative of a time at which said data is loaded in a time series data piece for a predetermined constant time [Figs 2-5 and col 4, lines 25-46];.

Doue discloses the elements of claim 27 as noted above.

Doue fails to disclose state transition information indicative of a state of said time series data piece of said predetermined constant time and said time series data pieces for said predetermined constant times, said state transition information having one of a value indicative of an online state in which the data area is permitted to be retrieved and a value indicative of a

loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved.

Iwamoto discloses state transition information indicative of a state of said time series data piece of said predetermined constant time and said time series data pieces for said predetermined constant times, said state transition information having one of a value indicative of an online state in which the data area is permitted to be retrieved [load completion flag, col 5, line 63], a value indicative of a loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved [access inhibit flag, col 5, line 67]/file update authorization flag, col 5, lines 30-40].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Doue to include state transition information indicative of a state of said time series data piece of said predetermined constant time and said time series data pieces for said predetermined constant times, said state transition information having one of a value indicative of an online state in which the data area is permitted to be retrieved, a value indicative of a loading state in which loading of data in the data area has not yet been completed and the data area is not permitted to be retrieved as taught by Iwamoto for the purpose of file management of the batch process [Iwamoto, col 5, lines 30-40]. The ordinary skilled artisan would have been motivated to modify Doue per the above for the purpose of eliminating the contention of resources between online processes and batch processes and thus speeding up the process of updating of the files [Iwamoto, abstract].

The combination of Doue and Iwamoto discloses the elements of the claim 27 as noted above.

The combination of Doue and Iwamoto fail to disclose a value indicative of a state in which data in the data area is empty.

Miyauchi discloses a value indicative of a state in which data in the data area is empty [col 5, line 63 through col 6, line 8].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Doue and Iwamoto to include a value indicative of a state in which data in the data area is empty as taught by Miyauchi for indicating a memory location which is capable of being written to. The ordinarily skilled artisan would have been motivated to modify the combination of Doue and Iwamoto per the above for the purpose of indicating which memory area is empty because flash memory is incapable of being over-written [Miyauchi, col 6, lines 3-8].

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Application/Control Number: 10/084,222  
Art Unit: 2171

Page 9

Patent related correspondence can be forwarded via the following FAX number (703)

872-9306

Etienne LeRoux

9/2/2004

  
SAFET METJAHIC  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100